

AO 91 (Rev. 11/11) Criminal Complaint

LODGED CLERK, U.S. DISTRICT COURT 04/20/2023 CENTRAL DISTRICT OF CALIFORNIA BY: _____ DVE _____ DEPUTY
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UNITED STATES DISTRICT COURT

for the

Central District of California

FILED CLERK, U.S. DISTRICT COURT 04/20/2023 CENTRAL DISTRICT OF CALIFORNIA BY: _____ KH _____ DEPUTY
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United States of America

v.

CESAR CHAVEZ

Case No. 8:23-mj-00233-DUTY

Defendant(s)
CRIMINAL COMPLAINT

I, the complainant in this case, state that the following is true to the best of my knowledge and belief.

On or about the date(s) of May 26, 2021 in the county of Orange in the
Central District of California, the defendant(s) violated:

Code Section

18 U.S.C. §922(g)(1)

Offense Description

(felon in possession of a firearm and ammunition)

This criminal complaint is based on these facts:

Please see attached affidavit.

☒ Continued on the attached sheet./s/ Jossue Hernandez*Complainant's signature*Jossue Hernandez, Task Force Officer, FBI*Printed name and title*

Sworn to before me and signed in my presence.

Date: 4/20/2023/s/ Autumn D. Spaeth*Judge's signature*City and state: Santa Ana, CaliforniaAutumn D. Spaeth, U.S Magistrate Judge*Printed name and title*

A F F I D A V I T

I, Jossue Hernandez, being duly sworn, hereby declare and state as follows:

I. INTRODUCTION

1. I am a Detective with Anaheim Police Department ("APD") and also a federally deputized Task Force Officer ("TFO") presently working with the Federal Bureau of Investigation ("FBI"). As a TFO with the FBI, I am an investigative or law enforcement officer of the United States within the meaning of 18 U.S.C. § 2510(7), and I am empowered by law to conduct investigations and make arrests for offenses enumerated in 18 U.S.C. § 2516.

2. I am assigned to the Orange County Violent Gang Task Force ("OCVGTF"). The OCVGTF is composed of federal and local law enforcement agencies, including, but not limited to, the FBI, the Bureau of Alcohol, Tobacco, Firearms, and Explosives, the APD, the Fullerton Police Department, and detectives from the Santa Ana Police Department. The OCVGTF is responsible for, among other things, investigating violations of federal law committed by criminal street gangs, the Mexican Mafia, and other violent criminal organizations in Orange County. Prior to this assignment with the FBI, I was an APD Police Officer and have been employed as a sworn officer for approximately fourteen years.

3. I have specialized training and experience in investigations of criminal street gangs. During my tenure as a Police Officer, as well as an FBI TFO, I have conducted and

participated in numerous investigations of criminal activity, specifically including narcotics, firearms trafficking and violent offenses committed by street gangs. Since joining the OCVGTF in 2020, I have specialized in investigations of the Mexican Mafia and its subordinate gangs in Orange County. As part of these investigations, I have also learned about the drug trafficking organizations that supply street gangs with illegal narcotics.

II. PURPOSE OF AFFIDAVIT

4. This affidavit is made in support of a criminal complaint against and arrest warrant for CESAR CHAVEZ ("CHAVEZ"), for a violation of Title 18, United States Code, Section 922(g)(1) (felon in possession of a firearm and ammunition).

5. The facts set forth in this affidavit are based upon information obtained from other law enforcement personnel, my personal knowledge, and my training and experience. This affidavit is intended to show merely that there is sufficient probable cause for the requested complaint and warrant, and does not purport to set forth all of my knowledge of or investigation into this matter. Unless specifically indicated otherwise, all conversations and statements described in this affidavit are related in substance and in part only.

III. SUMMARY OF PROBABLE CAUSE

6. On Wednesday, May 26, 2021, Anaheim Police Officers were dispatched to 619 S. Olive Street in the City of Anaheim County of Orange reference a person being shot.

7. Upon the officer's arrival, the officers located the deceased victim in the kitchen area. The victim had a single gunshot wound to the head. Further, a loaded magazine was located underneath the victim. A projectile, believed to have killed the victim, was later located in an adjacent bathroom to where the victim was located.

8. Moments later, Anaheim Dispatch received information that the suspect was running southbound on Philadelphia Street. Anaheim Police Helicopter "Angel" was on scene and observed the described male running on Philadelphia Street and then on to Olive Street where he hunkered down at 816 S. Olive Street. The suspect barricaded himself at 816 S. Olive Street, but he was later taken into custody. The suspect was identified as CHAVEZ. Forensics took a DNA sample from CHAVEZ.

9. Witnesses at 619 S. Olive Street were interviewed and they identified CHAVEZ as the person who was having an argument with the victim prior to the shooting. A witness also stated the victim lunged toward CHAVEZ as if to punch him. The victim then pulled out a gun and racked the slide. The witness then heard a single gunshot and the victim fell.

10. On Monday, May 31, 2021, APD Officers were dispatched to 600 S. Philadelphia Street reference a found gun located at the location. The loaded handgun was a Taurus 9mm semi-automatic

pistol. The handgun and the ammunition were processed at the Orange County Crime Lab (OCCL). CHAVEZ' DNA was located on the ammunition located inside the handgun. The projectile believed to have killed the victim was determined to have been fired from the firearm located at 600 S. Philadelphia Street.

IV. STATEMENT OF PROBABLE CAUSE

A. May 26, 2021 Arrest of CHAVEZ

11. I have reviewed police reports prepared by APD Homicide Detectives and Patrol Officers.

12. On Wednesday, May 26, 2021, at approximately 10:59 am, Anaheim Police Officer P. Huntsinger responded to 619 S. Olive Street regarding a female caller who said someone had been shot in the face. When Officer P. Huntsinger arrived on scene, he found the front door completely opened. Officer P. Huntsinger made announcements into the house and a female later identified as D.R.C. emerged from the rear of the bedroom of the residence. D.R.C. directed Officer P. Huntsinger to the victim. Believing the victim was not breathing, Officer P. Huntsinger rolled the victim over and a loaded firearm magazine was located under the victims' body. Ultimately, the officers determined the victim was deceased with a single gunshot wound to the head. Officer P. Huntsinger and Officer Alvarez conducted a safety sweep and Officer P. Huntsinger observed an opened brown colored handgun case in the residence bedroom on the bed. Officer P. Huntsinger did not see a handgun inside the case and no firearms were located inside the residence.

13. D.R.C. told Officer P. Huntsinger a male entered the residence and shot the victim before she called the police. D.R.C. identified the victim as her boyfriend. D.R.C. only knew the victim's first name because they had only been dating for three days. D.R.C. initially stated she did not know the suspect, but said the suspect fled out the rear of the residence, toward Philadelphia Street, prior to police arrival.

14. As Officer P. Huntsinger escorted D.R.C. to his police car, Officer Downs spoke to her briefly and she provided a moniker for the suspect as "Hate" or something similar.

15. While officers cleared the residence, the Anaheim Police Department Airship "Angel", arrived and was overhead soon after the call for service. Sergeant Santy and Tactical Flight Officer (TFO) Miessner observed a male subject, CHAVEZ, running southbound on Philadelphia Street towards South Street. Officer Miessner could see CHAVEZ holding his hand to the side of the head, leaving Officer Miessner with the impression he was talking on a cellular telephone. The dispatcher broadcasted that the suspect was possibly on Philadelphia Street. Officer Miessner broadcasted that they were watching the possible suspect. CHAVEZ crossed over South Street and turned eastbound on its south sidewalk. Once CHAVEZ reached Olive Street, he crossed eastbound and stood near the side-gate (north side) of the house at 812 S. Olive Street. Soon thereafter, a responding patrol officer neared CHAVEZ, and CHAVEZ ran eastbound through the (north) side yard of that house and into the backyard. Officer Miessner broadcast CHAVEZ' travels and requested

officers surround the property. At one point, CHAVEZ climbed a wall and walked around the apartment building at 406 E. South Street. CHAVEZ stayed there until another patrol officer came into view. CHAVEZ went back to the yard of the house at 812 S. Olive Street. As more officers arrived, CHAVEZ climbed the wall to enter the backyard of the house at 816 S. Olive Street.

a. Witnesses located at the apartment complex at 816 S. Olive Street saw CHAVEZ sweating and pacing back and forth around the residence. While a witness was inside her home, she heard a noise in an adjacent laundry/storage room. The witness believed the male she observed outside her home was in the laundry/storage room. Detective J. Duran asked the witness if the male she observed was armed with a handgun and she said she did not observe the male with a handgun. The witness later identified CHAVEZ as the male outside her apartment.

16. Anaheim patrol officers surrounded the location at 816 S. Olive Street and later took CHAVEZ into custody with the help of the Anaheim Police Department S.W.A.T. team.

17. Forensic Technician Edelbrock processed CHAVEZ. She obtained a buccal swab from him, collected his shoes and socks, and photographed him.

18. Anaheim Police Dispatch received the shooting call at 619 S. Olive Street at approximately 10:59 am. Surveillance video showed CHAVEZ walking northbound at 626 S. Philadelphia Street at approximately 11:02 am. The distance between both locations is less than .1 miles.

19. Detectives interviewed D.R.C., and she said the victim was her boyfriend. D.R.C. identified CHAVEZ and believed he went by the moniker "Hater." D.R.C. explained that the victim confronted CHAVEZ, who was inside a trailer outside the home, and told CHAVEZ he needed to leave the property. After the victim asked CHAVEZ to leave the property, CHAVEZ exited the trailer, and a verbal altercation ensued. D.R.C. heard CHAVEZ say something similar to, "This is FOLKS." During the argument, CHAVEZ produced a handgun, shot the victim once in the face, and fled the location, taking the firearm with him. D.R.C. said the owner of the house was M.S., and he also witnessed the murder.

a. Detectives interviewed M.S. who said he had been living at 619 S. Olive Street for approximately ten years. M.S. explained the house was on probate, but M.S. was responsible to the home after the homeowner passed away in January. M.S. stated before the homeowner passed away, he befriended several men who had ties to different gangs. Those men started taking over the home before the owner died. According to M.S., more and more people began going over to the house and began taking over the home including M.S.'s bedroom. M.S. described the home as being like a "trap-house". M.S. said he lost control of the house with numerous subjects coming over including "Hate" who was recently causing issues at the home. As more people began frequenting the home, issues started to arise between members of different gangs who visited. According M.S., the victim had a firearm since he was going to help stop all the traffic at the house. M.S. told detectives he was present in the kitchen during

the homicide. M.S. said he heard the victim and CHAVEZ arguing and heard CHAVEZ say his gang name "FOLKS." M.S. could not see CHAVEZ but recognized his voice from prior contacts. M.S. observed the victim lunge toward CHAVEZ as if he was going to punch him, then retrieve a handgun and rack the slide. Simultaneously, M.S. heard a gunshot and saw the victim fall to the ground. Believing he would also be shot, M.S. fled the scene and did not know where CHAVEZ went.

20. The victim was located in the kitchen area. After a search of the residence, a hole was located on the kitchen wall that lead to the bathroom. A projectile was located inside the bathroom by Forensic Specialist Supervisor Garner.

21. Detectives contacted a resident at 618 S. Philadelphia Street who located surveillance footage of CHAVEZ shortly after the shooting occurred. The surveillance footage showed CHAVEZ walking northbound on the east sidewalk of Philadelphia with a heavy-set female Hispanic (later identified as D.C.) with brown and blonde hair. Three minutes later, CHAVEZ was seen walking southbound on the east side of Philadelphia, talking on a cell phone by himself. CHAVEZ then ran southbound out of the camera view while talking on the phone toward the area where he was ultimately taken into custody.

22. Detectives viewed the surveillance footage from 619 S. Olive Street and noted it did not capture the homicide. However, it did capture CHAVEZ and D.C. arriving at the location on May 26, 2021, at approximately 8:56 am. CHAVEZ attempted to gain entry to the residence. CHAVEZ knocked on the front door and

tried to get into the backyard for several minutes before walking away with D.C. It was apparent that CHAVEZ did not live at the location and did not have keys to the house. CHAVEZ returned to the house at approximately 9:19 am, by himself, and again knocked on the door several times. The surveillance camera in the backyard was not working, and detectives never saw CHAVEZ enter or exit the property.

23. Detectives interviewed D.C., who stated she was with CHAVEZ when the homicide occurred. D.C. was inside the trailer with CHAVEZ when an unknown male knocked on the trailer and said the owner of the house said they (CHAVEZ and D.C.) needed to leave. CHAVEZ exited, and D.C. heard a verbal altercation occur outside the trailer, followed by a single gunshot. D.C. then exited the trailer, and CHAVEZ told her they needed to leave. D.C. left the location with CHAVEZ but never saw the victim or CHAVEZ with a gun. D.C. said CHAVEZ was acting very nervous, and she ultimately got a ride out of the area before police arrived. CHAVEZ never told D.C. the details of the homicide.

a. Five days late after the homicide, on May 31, 2021, Anaheim Police Officers were dispatched to 600 S. Philadelphia Street regarding a loaded Taurus pistol found under a washing machine in the backyard. The Taurus pistol is furthered described as a G2c, 9mm semi-auto pistol baring a serial number #TLT09097. A record check of the serial number revealed no record on file. The firearm was photographed and collected by forensic technicians and booked into evidence under

(PR #657900-1). On June 7, 2021, the firearm was submitted to the Orange County Crime Lab (OCCL) for processing.

b. On October 21, 2021, detectives received a Report of Evidence Examination and DNA Typing from the OCCL (FR# 21-47316). The report documented the DNA results from PR# 657900-008 (Buccal swab of bullets) and PR# 657900-009 (Buccal swab of bullets) from the Taurus pistol. The report concluded, "There is very strong support that CHAVEZ is a main contributor to the DNA mixture obtained from the bullet sample."

24. On November 10, 2021, detectives received a Report of Evidence Examination from the OCCL. Forensic Scientist III Allison L. Flattum authored the report on November 9, 2021. Prior to receiving the report, detectives requested the OCCL compare the Taurus pistol (PR #657900-1) recovered from 600 S. Philadelphia Street on May 31, 2021 (GO #21-76662), to PR #657557-1 (the projectile believed to have killed the victim) recovered from the bathroom at 619 S. Olive Street. The report concluded, "The Taurus pistol (S/N TLT09097) was determined to have fired the bullet (APD Item #657557-1)."

B. CHAVEZ's Criminal History

25. I have reviewed CHAVEZ's criminal history for felony convictions. Based on my review of those records, I have learned that CHAVEZ was convicted of the following felonies on or about the dates specified below:

a. On August 19, 2015, for burglary in the second degree, in violation of California Penal Code ("CPC") §

459/460(b), in the Orange County Superior Court, Case No. 15NF0236, for which he was sentenced to two years in prison;

b. On August 19, 2015, for burglary in the second degree, in violation of California Penal Code ("CPC") § 459/460(b), in the Orange County Superior Court, Case No. 15NF1598, for which he was sentenced to 296 days in jail and three years probation;

c. On June 22, 2017, for possession of a firearm by a felon, in violation of California Penal Code ("CPC") § 29800(a)(1), in the Orange County Superior Court, Case No. 17NF0592, for which he was sentenced to 16 months in prison.

C. Interstate Nexus

26. On January 20, 2022, I contacted Firearms Expert TFO Farshid Hashempour, regarding the weapons and ammunition recovered in this case. On January 20, 2022, TFO Hashempour examined the firearms and ammunition seized as evidence by APD on May 31, 2021, for purposes of determining whether the firearm and ammunition had traveled in interstate or foreign commerce. During his review of the firearm and ammunition, TFO Hashempour determined that the firearm and ammunition recovered during the aforementioned case were the following:

27. A black Taurus Model PT111 G2A, 9mm semi-automatic pistol bearing serial number TLT09097. Based on TFO Hashempour's review of the firearm, TFO Hashempour informed me that the revolver was manufactured in Georgia, Florida or

Brazil. TFO Hashempour determined that the firearm is a firearm as defined in Title 18, United States Code, Chapter 44, Section 921(a)(3) and had to have moved through interstate commerce given that it was recovered in California.

28. Four rounds of Federal Cartridge 9mm caliber ammunition, stamped "FC 9mm Luger." Based on TFO Hashempour's review of the ammunition, TFO Hashempour informed me that it was manufactured in either Minnesota, Idaho or Missouri. Two rounds of Tulammo 9mm caliber ammunition, stamped "Tulammo 9mm Luger". Based on TFO Hashempour's review of the ammunition, TFO Hashempour informed me that it was manufactured in Russia. Four rounds of Remington Peters 9mm caliber ammunition, stamped "R-P 9mm Luger." Based on TFO Hashempour's review of the ammunition, TFO Hashempour informed me that it was manufactured in either Arkansas or Connecticut. TFO Hashempour determined that the ammunition identified in this report is ammunition as defined in Title 18, United States Code, Chapter 44, Section 921(a)(17)(A), and had to have moved through either interstate or foreign commerce given that it was recovered in California.

V. CONCLUSION

29. For all the reasons described above, there is probable cause to believe that CHAVEZ has committed a violation of Title
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18, United States Code, Section 922(g)(1) (felon in possession of a firearm and ammunition).

/s/ Jossue Hernandez

JOSSUE HERNANDEZ

Task Force Officer, FBI

Detective, APD

Attested to by the applicant in
accordance with the requirements
of Fed. R. Crim. P. 4.1 by
telephone on this 20 day of
April, 2023.

/s/ Autumn D. Spaeth

HONORABLE AUTUMN D. SPAETH

UNITED STATES MAGISTRATE JUDGE